

CR15-00707-PHX-SRB JUVENILE JUAN 2-24-16

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

United States of America,)
)
 Plaintiff,)
) CR15-00707-PHX-SRB
 vs.) Phoenix, Arizona
) February 24, 2016
 Abdul Malik Abdul Kareem,)
)
 Defendant.)
)
)
)

BEFORE: THE HONORABLE SUSAN R. BOLTON, JUDGE
EXCERPT OF REPORTER'S TRANSCRIPT OF PROCEEDINGS
JURY TRIAL - DAY #6
TESTIMONY: JUVENILE JUAN

APPEARANCES:

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E X C E R P T O F P R O C E E D I N G S

MS. BROOK: The government calls Juan.

THE COURT: It's not easy to sit all day, is it? You know, just sit around all day. It's not easy.

(Witness duly sworn.)

THE CLERK: Please only state your first name for the record.

THE WITNESS: Juan.

THE COURT: Please proceed, Ms. Brook.

MS. BROOK: Thank you.

JUVENILE JUAN, WITNESS, SWORN**DIRECT EXAMINATION**

BY MS. BROOK:

Q Good afternoon.

A Hi.

Q What's your first name?

A Juan.

Q And, Juan, how old are you?

A I am 15.

Q What grade are you in?

A I am a freshman in high school.

Q Do you have any brothers and sisters?

A I have four brothers and five sisters.

Q And of those brothers, is Carlos one of your brothers?

A Yes, ma'am.

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1 Q Are you older or younger?

2 A I am the middle.

3 Q Okay. So are you older or younger than him?

4 A I'm older.

5 Q And you are a freshman in high school.

6 What's your favorite class?

7 A Math.

8 Q And do you -- why do you like math?

9 A It's kind of a challenge for me, so I like challenges that
10 get in my way, so.

11 Q So it's a little bit of a challenge?

12 A Yep.

13 Q Have you always liked it or is that something new?

14 A I've always liked it a little bit of challenges in my
15 life, so.

16 Q Do you participate in any activities at school?

17 A I participate in after school clubs.

18 Q And which clubs?

19 A I participate in Enemy Club and Game Room Club.

20 Q So an Enemy Club?

21 A Yes.

22 Q And do you use the computers with that or how does that
23 work?

24 A We basically go into a classroom after school and then
25 we'll talk about future clubs and future plans that we have.

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1 Q Okay. And you mentioned another club as well. What was
2 that?

3 A Game Room.

4 Q Game Room. And what do you do in Game Room?

5 A We really just sit there and play games. Otherwise, we
6 are looking for fundraisers for other clubs.

7 Q Have you been doing those just this year, freshman year?

8 A Yes.

9 Q Are they sort of a specific thing you get to do in high
10 school?

11 A Yeah.

12 Q Do you do ROTC?

13 A Yes.

14 Q How long have you been doing that?

15 A For about the entire year, first year.

16 Q Okay. So this whole freshman year?

17 A Yes.

18 Q And what sort of things do you have to do as part of ROTC?

19 A We have to maintain self-grooming.

20 Q Self-grooming?

21 A Yes.

22 Q And so you have to -- is that related to your hair or how
23 you look?

24 A Mostly maintains to your hair. You have to keep it at a
25 certain range. Otherwise, you get into kind of a situation

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1 with that.

2 Q They don't like if your hair grows out too long?

3 A Yeah.

4 THE COURT: So I take it, Carlos couldn't be in ROTC?

5 THE WITNESS: No.

6 BY MS. BROOK:

7 Q And do you have to do any practices or drills with them
8 during the week?

9 A Yes, I do.

10 Q Are there any physical activities or things that you have
11 to do with them?

12 A On Friday we do PT, so.

13 Q Do you play any instruments?

14 A The piano.

15 Q How long have you been playing the piano?

16 A For about three years now.

17 Q Do you have any particular songs that you like the most?

18 A Actually, I like Pachelbel's Canon in D Major, so.

19 Q Do you live with your brothers and sisters and with
20 Carlos?

21 A Yes.

22 Q Did there come a time that you met somebody by the name of
23 D?

24 A Yes, I did.

25 Q And how is it that you met him?

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1 A I met him through my older brother Lupe.

2 Q Did D for a time live near where you lived with your
3 brothers and sisters?

4 A Yes.

5 Q And do you know what street that was on?

6 A That was on West Cochise Drive.

7 Q You are in ninth grade now?

8 A Yes.

9 Q So was there a time when D moved out and left and no
10 longer lived at Cochise?

11 A Yes.

12 Q When was that?

13 A During the summer of my year as becoming a freshman.

14 Q Okay. And after he moved away, did you talk to him again?

15 A No.

16 Q So all of the time that you spent with D, it was during
17 the time that he was living in that house on Cochise?

18 A Yes.

19 Q And after he moved away, you didn't speak to him again?

20 A I did not.

21 Q Okay. I want to talk about the time that you spent with
22 D. You mentioned that you met him through Lupe?

23 A Uh-huh.

24 Q And for how long do you think? So you talked about last
25 year you were in eighth grade; is that right?

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1 A Yes.

2 Q How much time do you think you spent with him -- was it
3 the -- most of the time that you were in eighth grade? Was it
4 more than that? What was it?

5 A It was about halfway where I was into eighth grade and
6 then the summer.

7 Q Okay. Did D ever buy you presents?

8 A Yes, he did.

9 Q And what sort of things did D buy you?

10 A He bought -- I know he bought my little brother and me an
11 X-box 360.

12 Q Anything else?

13 A Out of everything, for me, that's all I can remember.

14 Q Did you see him buy other gifts for your little brother
15 Carlos?

16 A Yes, I did.

17 Q And what sort of things did you see him buy for Carlos?

18 A I believe it was a skateboard that he bought him.

19 Q Ever a phone?

20 A I'm not really sure.

21 Q Would D ever take you out to eat?

22 A Yes, he would.

23 Q And when you went out to eat with D, who would pay?

24 A D.

25 Q How often would you go over to D's house when he was

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1 living across the street?

2 A In the beginning it was kind of like maybe once or twice
3 every week.

4 Q And did that change?

5 A Yes, it did.

6 Q How did it change? Was it more or less?

7 A It changed a little bit more mostly because like I would
8 go over there every day, soon after.

9 Q Okay. So after school you would go over to his house
10 every day?

11 A Yes.

12 Q Would you ever sleep over there?

13 A Yes.

14 Q And when you would go over there, sometimes would Carlos
15 be there too?

16 A Yes, he would.

17 Q After you met D, did you convert to Islam?

18 A Yes, I did.

19 Q And why did you do that?

20 A Mostly because it kind of felt like a new experience to me
21 and, you know, it was kind of going into a new experience.

22 Q Who converted you?

23 A D.

24 Q Do you remember how it happened?

25 A Yes, I did.

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1 Q Can you describe it for us?

2 A Basically, it goes as you kind of take a shower first
3 before everything starts. And then once that happens, you go
4 into the living room with everybody else. And then whoever is
5 converting you, you have to repeat everything they say after.

6 Q Who converted you?

7 A D.

8 Q And did you take the shower?

9 A Yes.

10 Q And then did you go into the living room?

11 A Uh-huh.

12 Q And did you repeat after D what you were supposed to say?

13 A I did.

14 Q What happened then?

15 A After that, I wasn't really -- I really have no recalling
16 memory as to that, so I'm sorry.

17 Q When you converted, was Carlos already Muslim?

18 A Yes.

19 Q And before you two met D, were you Muslim?

20 A No.

21 Q Did you ever meet somebody by the name of Ibrahim?

22 A Yes, I did.

23 Q And how did you meet him?

24 A I met him through D one night.

25 Q Did you see him just that one night or --

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1 A I saw him kind of like on a regular basis most of the
2 time.

3 Q Okay. I'm going to place on the overhead what's been
4 already marked and admitted as Government's Exhibit No. 431.

5 Do you recognize the person in that photo?

6 A Yes.

7 Q And who is that?

8 A That is Ibrahim.

9 Q You said that you saw him all the time. Where was it you
10 saw him?

11 A I usually saw him at D's house, but every now and then he
12 would come over to my house just to say hi.

13 Q And when you saw him at D's house, would he ever talk to
14 you about being Muslim?

15 A Yes.

16 Q Did you look up to him?

17 A I did.

18 Q Explain that.

19 A I looked up to him because he was kind of like wise in my
20 perspective, mostly because he taught me lessons that actually
21 worked in certain situations that I used to have in school.

22 Q Okay. And did he talk to you a lot about religion as
23 well?

24 A Yes.

25 Q I want to change subjects a little bit and talk about the

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1 time that you were spending time at D's house when you were in
2 the eighth grade.

3 Did D ever show you videos where people were killed?

4 A Once.

5 Q And can you describe the video that you saw?

6 A So it went along as 13 Muslims were standing in front of
7 three cameramen along with AKs in their hands. And they
8 allowed one of them to speak. And he basically just said that
9 everything was going to be all right to his family here in
10 America, so.

11 Q The person that was speaking saying everything was going
12 to be all right to his family back here in America, what
13 happened to him in the video?

14 A After that it kind of went -- it kind of blacked out and
15 that's what really happened. I'm not sure what happened to
16 him. I guess he was beheaded or shot.

17 Q And why do you think that?

18 A Mostly because one Muslim was standing next to him with a
19 machete in his hand against his throat, so.

20 Q Do you remember anything about the man that was speaking
21 saying that everything was going to be all right back to his
22 family back in America, do you remember anything he was
23 wearing?

24 A He was wearing an orange jumpsuit.

25 Q And the men that had the machete in their hand, do you

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1 remember what they were wearing?

2 A He was wearing a black robe.

3 Q You mentioned that D showed you this video. Was it on a
4 computer or something else?

5 A It was on his TV.

6 Q And did you know whether or not his TV was hooked up to a
7 computer?

8 A No. It was actually hooked up to an Roku system, I
9 believe it's called.

10 Q To a what system?

11 A A Roku.

12 Q And did that have the ability to pull up stuff on the
13 Internet?

14 A Yes.

15 Q Was there a keyboard nearby?

16 A No. It was just a remote.

17 Q And when D showed you this video, was anybody else there?

18 A No. Not that I could recall.

19 Q Do you remember, was Ibrahim there that day?

20 A I believe so.

21 Q And how did D act when he was showing you this video?

22 A It was kind of like he was a puppet, basically. No
23 emotions. No feelings. Just a blank stare.

24 Q And did he queue it up for you to see?

25 A Yeah.

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1 Q Was he also watching the video?

2 A Yes, he was.

3 Q Did D ever talk to you about strapping a bomb to himself?

4 A Yes.

5 Q Did that happen once or more than once?

6 A It happened more than once on occasion.

7 Q And describe for us one time when you heard him say that.
8 What did he say?

9 A I remember him specifically saying that he wanted to
10 literally strap himself to a bomb and go inside a mall with
11 innocent people and just blow everything up.

12 Q You mentioned that you were inside his house at the time?

13 A Yes.

14 Q What was his voice like when he said that?

15 A It kind of sounded like he was angry and upset at the
16 same -- kind of like in a state of two different opinions at
17 once.

18 Q How do you mean?

19 A It was kind of like he was mad, but then at the same time
20 he kind of felt guilty.

21 Q And did he say he was guilty or did you just maybe think
22 he felt guilty?

23 A I went into my own perspective and thought he was feeling
24 guilty.

25 Q The way he acted and his tone, was that angry or something

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1 else?

2 A It was angry.

3 Q And did he say why he wanted to strap a bomb to himself
4 and go into a mall to blow people up?

5 A The exact reason I was never sure of, but all I know is
6 that that's what he said and that's all I could remember.

7 Q You had mentioned that you heard him say that more than
8 once?

9 A Yes.

10 Q What happened the other time?

11 A The next occurrence was when I was in the back room of my
12 older brother when he was currently living there.

13 Q And what did you hear that time?

14 A I could kind of hear a conversation between two different
15 people. I believe that Ibrahim was there.

16 Q Okay. And at that point did you know Ibrahim's voice?

17 A Yes.

18 Q And did you -- obviously, you knew D's voice?

19 A Yes.

20 Q So what did you hear D say about strapping a bomb to
21 himself that time when you were in the back room?

22 A He was kind of upset because I guess a police officer had
23 pulled him over and I guess he kind of got mad at it because
24 it was for no reason at all. He wasn't speeding or anything,
25 so he just got pulled over for no reason.

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1 Q And what did he say about the bomb that time?

2 A He was -- it was basically as the same first occurrence,
3 that he just wanted to strap himself to a bomb and go inside a
4 mall and kill people.

5 Q And from what you heard, could you tell who he was talking
6 to when he said that?

7 A Yes.

8 Q Who?

9 A He was talking to Ibrahim.

10 Q During your eighth grade year when you were at D's house,
11 did you hear D talk about an attack in Texas?

12 A He was talking about the drawing contest in Texas, I
13 believe.

14 Q And did you hear him talk about the drawing contest in
15 Texas once or more than once?

16 A I heard him talk about it three times, but, you know, that
17 was about it.

18 Q Okay. Did you hear him talk about it one time when you
19 were in a back bedroom at the house?

20 A Yes, I did.

21 MR. MAYNARD: Leading.

22 THE COURT: Overruled.

23 Please ask your next question.

24 BY MS. BROOK:

25 Q What did you hear?

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1 A I heard D talking to Ibrahim at the time.

2 Q And what did you hear D say?

3 A I heard D kind of like getting angry because -- I wasn't
4 really sure what at the time, so I didn't really hear Osama
5 bin Laden into the conversation at the time, so I kind of just
6 brushed it off.

7 Q And what did you hear next?

8 A After that I started hearing a little bit of arguing and I
9 kind of didn't listen to that part because, in reality, I
10 don't like to listen to people argue.

11 Q Who could you hear arguing?

12 A I could remember hearing Ibrahim and D arguing.

13 Q Okay. And did you stay there in the back bedroom or did
14 you go somewhere?

15 A I actually went outside the bedroom.

16 Q Where did you go to?

17 A I went inside the hallway.

18 Q And when you walked into the hallway, could you directly,
19 with your own eyes, see D and Ibrahim?

20 A Not directly, but with the mirror that he had in the
21 living room.

22 Q And who did you see in the living room?

23 A I saw Ibrahim and D.

24 Q And standing there in the hallway, what did you hear?

25 A I could hear more about the drawing contest and just D

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1 just getting mad at it --

2 Q D was getting mad at who?

3 A At whoever was doing the drawing contest or whoever was
4 hosting it.

5 Q So D was getting mad at the people that were hosting the
6 drawing contest?

7 A Yes.

8 Q And what else did you hear D say?

9 A I can hear him saying that he just wanted to go over there
10 and just shoot them.

11 Q Did Ibrahim say anything?

12 A No, he did not. He was trying to talk it out of -- talk D
13 out of him.

14 Q And did D say anything else?

15 A No. He did not.

16 Q What was D's tone of voice like when he said he wanted to
17 go there and to shoot them?

18 A He was angry and kind of like very low state though.

19 Q And kind of what?

20 A It was kind of in a very low state. Not too mad. Not
21 too --

22 Q Okay. Did you stay in the hall or did you go somewhere
23 else?

24 A I stayed in the hall.

25 Q And at some point after you heard D say that he wanted to

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1 go there to shoot them, did you continue to stay in the hall
2 or at some point did you leave?

3 A At some point I did leave the hallway and go back into the
4 room.

5 Q I want to put on the overhead what has not yet been
6 admitted but has been marked as 532. It's a sketch. But what
7 does it look like?

8 A It looks like exactly how his house was.

9 Q And that's the house on Cochise?

10 A Yes.

11 Q And it was in the house on Cochise where you heard D talk
12 about this art contest and getting upset and then saying he
13 wanted to go there and shoot somebody.

14 A Yes.

15 MS. BROOK: Your Honor, the government is going to
16 move to admit 532.

17 MR. MAYNARD: No objection.

18 THE COURT: 532 is admitted.

19 (Exhibit No. 532 admitted in evidence.)

20 BY MS. BROOK:

21 Q As we look at this, Juan, do you see the bedroom that you
22 were in?

23 A Yes, I do.

24 Q And you know what, if you touch the screen, you can make a
25 mark on it.

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1 Why don't you put a mark on the bedroom you were in
2 when you first heard that conversation.

3 A I was in the very back room here.

4 Q Okay. And so you have put a little mark -- you can even
5 make an "X"?

6 A Okay.

7 Q You mentioned that you moved out into the hallway.

8 Can you show us with your finger. Draw a line that
9 shows where you went to and then where you stood?

10 A (Indicating) Right about there.

11 Q Okay. So you have drawn a line that is at the end of the
12 hallway. So you walked out of the room towards the end of the
13 hallway there?

14 A Yes.

15 Q And that's right there near the living room?

16 A Yes, it is.

17 Q How did you stand in the hallway? Did you stand in the
18 middle or against the wall or something else?

19 A I was standing against this area of the wall (indicating.)

20 And at the corner of right about there (indicating)
21 was the mirror that I was looking at and in the prayer room I
22 could see D and Ibrahim.

23 Q Okay. So they were in the prayer room?

24 A Yes.

25 Q And can you put a circle for us where the prayer room is.

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1 A (Indicating)

2 Q From what you heard, did you hear anything that would make
3 you think that they knew that you were standing there in the
4 hall?

5 A No.

6 Q And you mentioned that you then went back to the room?

7 A Yes, I did.

8 Q Was that the same room?

9 A Yes.

10 Q And did -- eventually, did D come back into that room to
11 you?

12 A Yes, he did.

13 Q At that point was Ibrahim still in the house?

14 A Yes, he was.

15 Q And what did D say to you when he came back to the back
16 bedroom and you were back in the room?

17 A He came to see if I was hungry and that if I wanted to go
18 get something to eat.

19 Q And what else did he say?

20 A He also wanted to see where Carlos was so he could come
21 along with us.

22 Q Did he take you out to eat that night?

23 A Yes, he did.

24 Q And after you heard what you heard in the hallway and you
25 were back in the bedroom, how were you feeling?

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1 A I was feeling a little bit uneasy and on the skeptical
2 side about D, but it was kind of a misinterpretation as I
3 thought it would be, so I just kind of brushed it off my
4 shoulder and didn't think about it much.

5 Q Okay. So you thought that perhaps what?

6 A That he's probably just making a joke about it, like, you
7 know how people make jokes, inside jokes.

8 Q When you heard him when he was in the prayer room and you
9 were in the hall, was he laughing about what he was talking
10 about?

11 A He chuckled a little.

12 Q You mentioned his tone before. Can you describe it a
13 little bit more so that we understand.

14 What was his tone like when he talked about shooting
15 people at the art contest?

16 A It was kind of like he was almost enjoying talking about
17 it like he actually wanted to do it.

18 Q You mentioned that there were other times that you heard D
19 talk about the Texas attack. When else did you hear about it?

20 A I remember him talking about it once in his car.

21 Q And were you in the car with him?

22 A Yes, I was.

23 Q What did you hear D say?

24 A D got a call from Ibrahim on his bluetooth system and I
25 was sitting in the front seat and it was me, D, and Carlos all

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1 in the car.

2 Q And so it's you, D, Ibrahim, and Carlos?

3 A Yes.

4 Q Okay. And who -- Carlos is in the car. Was he -- could
5 you see, did he have anything on him?

6 A He had his earbuds in and was kind of falling asleep in
7 the back.

8 Q What did you hear D say during that car ride?

9 A I could remember him chuckling a bit and talking about the
10 Texas contest again.

11 Q And what did you hear D say about the Texas contest?

12 A That he kind of wanted to go over there and just continue
13 talking about shooting people and just making it seem like
14 it's no big deal and that it's his religion that he should be
15 able to defend it.

16 Q Did he explain what it was he was defending?

17 A He was -- he explained that Osama bin Laden is one of the
18 great Prophets that it shouldn't be made as a joke in any way,
19 shape, or form.

20 Q And who was he talking to?

21 A He was talking to Ibrahim.

22 Q Was there another time that you heard D talk about the
23 Texas attack?

24 A Yes, I did.

25 Q And when was that?

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1 A It was in his house again.

2 Q And what did you hear?

3 A I could remember hearing D talk about that he just wanted
4 to go over there and kind of talk his way into them stopping
5 or just drawing something else about it.

6 Q And "over there" was over where? Where did he want to go?

7 A He kind of wanted to go over to the Texas contest to see
8 who the host was and just talk to them.

9 Q Who was D saying this to?

10 A He was talking to Ibrahim and AK at the time.

11 Q And where were you when this conversation was taking
12 place?

13 A I was in the same room as the last time.

14 Q Okay. And what did you hear --

15 Well, where was D?

16 A Him -- D and Ibrahim and AK were all in the prayer room.

17 Q And, again, what was D's tone of voice like when he was
18 talking about going to Texas to the art contest to shoot
19 people?

20 A It was -- this time it was like he had no life to it.
21 That he kind of lost his soul of it. And then it kind of
22 redeemed it as he kept going and talking about it into further
23 detail.

24 Q You had mentioned a video that D showed you and we talked
25 about that earlier.

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1 Did he also ever show you a video about the end of
2 the world?

3 A Yes, he did.

4 Q And where was it that he showed you that video?

5 A He showed it to me on his TV that he had in the prayer
6 room.

7 Q Can you describe the video that D showed you?

8 A The video was talking about certain Mother Nature-made
9 disasters like tornadoes happening more often and hurricanes
10 being larger and more devastating than before.

11 Q And did it talk about something happening to the world?

12 A Yes, it did.

13 Q What did it say?

14 A It started talking about that once the trumpets of -- I
15 don't remember the name of the Prophet that they were talking
16 about -- but I know that it talked about that once the
17 trumpets started to sound in the sky, that the Apocalypse was
18 coming.

19 Q Juan, are you still Muslim?

20 A No. I'm not.

21 Q When did you stop practicing?

22 A I stopped practicing well over -- before D moved out.

23 Q We've talked a lot about D here today. Do you see him
24 here with us in the courtroom?

25 A Yes, I do.

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1 Q And can you point to him and describe something that he's
2 wearing?

3 A He is wearing a blue shirt.

4 MS. BROOK: Your Honor, may the record reflect that
5 the witness has identified the defendant?

6 THE COURT: Yes.

7 MS. BROOK: May I have just one moment?

8 THE COURT: Yes.

9 BY MS. BROOK:

10 Q We talked just a minute ago about that video about the end
11 of the world.

12 And did D say anything to you about that video?

13 A He said that maybe I should take it into consideration
14 because the signs and the evidence were there that were
15 described in the Bible that the end of times is coming soon.

16 Q We talked about that time where you heard D talk about the
17 art contest in Texas and shooting people at the art contest
18 and you going back into the back bedroom and then D coming
19 back and taking you to dinner.

20 Did D say anything to you about that conversation,
21 the conversation that had happened before that you had heard?

22 A He did not really talk to me about it. He didn't really
23 think I heard about it -- heard him talking about it.

24 So he just wanted -- he -- I don't know what he was
25 feeling that day, but I'm kind of guessing that he was kind

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1 of -- trying to be safe --

2 MR. MAYNARD: Objection, Your Honor, speculation.

3 THE WITNESS: -- trying to be safe than sorry.

4 THE COURT: Don't guess for us. Just tell us what
5 you remember.

6 BY MS. BROOK:

7 Q So did he say anything specifically about the conversation
8 that you had overheard when he came to the back bedroom?

9 A No. He hadn't.

10 MS. BROOK: I don't have any other questions.

11 THE COURT: Thank you. Mr. Maynard.

12 **CROSS EXAMINATION**

13 BY MR. MAYNARD:

14 Q Let's talk about the time line a little bit.

15 Do you remember when D first moved into the
16 neighborhood on Cochise?

17 A No, I do not.

18 Q Do you remember there being a point in time when your
19 brother Lupe moved in with him?

20 A Yes.

21 Q And Lupe actually worked for him for a while, correct?

22 A Yes, he did.

23 Q Do you recall when Lupe moved out?

24 A No, I do not.

25 Q Do you recall that when Lupe moved out of D's house, he

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1 moved back into your mother's house across the street?

2 A Yes, he did.

3 Q Okay. You just don't recall when that was?

4 A I do not.

5 Q Okay. Do you recall whether or not it was before or after
6 Christmas of 2014?

7 A No.

8 Q Okay. Now, living across the street from D, is you,
9 correct?

10 A Yes.

11 Q And your younger brother? What's his name?

12 A Carlos.

13 Q Carlos. Who else is living in that house?

14 A Me, my little brother, my two younger siblings, my little
15 sisters, and my two older sisters.

16 Q So there are six kids that are living in the house. Your
17 mom is living there?

18 A Uh-huh.

19 Q Correct?

20 A Yes.

21 Q Okay. What about your dad?

22 A He's my stepdad, but, yes, he is living there.

23 Q Okay. So there is a male adult that is living in the
24 household too?

25 A Yes.

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1 Q Okay. And were they all living there back in 2014?

2 A Yes, they were.

3 Q And there were -- there was at least a time when your
4 brother Lupe was also living in that house, correct?

5 A Yes, he was.

6 Q Okay. And did you have any other brothers that lived in
7 the house at the same time?

8 A I had two stepbrothers living there.

9 Q Okay. So there were -- were there at least -- how many
10 people were living in the household back in 2014?

11 A Nine.

12 Q Nine?

13 A About.

14 Q Okay. And so at some point in 2014 your brother Lupe
15 moves across the street and moves in with D, correct?

16 A Yes, he did.

17 Q Okay. You've told us that you would go over there
18 sometimes several times a week and then there was at least a
19 time period when you went over there maybe more often than
20 that; is that correct?

21 A Yes, it was.

22 Q When you went over there several times a week, was your
23 brother Lupe living there then?

24 A Yes, he was.

25 Q All right. You've told us and we were looking at this

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1 drawing of the house on Cochise -- the back bedroom where you
2 placed the "X" on it, that was a room that you were back in
3 when you told us about this conversation that occurred,
4 correct?

5 A Yes.

6 Q Okay. Had you been sleeping back there or what were you
7 doing back there in that bedroom?

8 A I would go in that back bedroom just to play my older
9 brother's Game Cube that he had.

10 Q So your brother Lupe then, was he living back there at
11 that time?

12 A Yes.

13 Q So if we know when your brother Lupe was living there,
14 then we'll know that time period when you heard this
15 conversation occur, correct?

16 A Yes.

17 Q All right. And was Lupe back there with you? Were you
18 playing with him?

19 A No. Lupe was actually out doing a job.

20 Q Okay. But he was still living there. You were actually
21 in his bedroom at the time?

22 A Yes, I was.

23 Q All right. And nobody else was back there with you?

24 A Nobody.

25 Q So Carlos wasn't there that day?

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1 A No, he was not.

2 Q All right. And were the only two that were in the house
3 on that with particular day Ibrahim and D?

4 A Yes.

5 Q All right. Let me go back.

6 When D first moved into the neighborhood, did he help
7 your mom out? In other words, did he help her with her car?

8 A Not that I know of.

9 Q Okay. Do you know whether he gave her tools or provided
10 furniture to her?

11 A Yes, I did.

12 Q Okay. I mean, was he a pretty kind, generous guy?

13 A Yes. He was.

14 Q Okay. And during the time periods when you were over in
15 this house, were there other people that were living there
16 with him?

17 A There were three people living there.

18 Q Okay. Do you remember a black man by the name of Billy?

19 A Yes.

20 Q Okay. And do you remember Stefan Verdugo?

21 A Yep.

22 Q And do you remember any others that were living there?

23 A I remember one person also living there. His name was
24 Efrain.

25 Q I'm sorry?

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1 A Efrain.

2 Q Efrain. And then there was also your brother Lupe that
3 lived there?

4 A Yes.

5 Q Okay. And did D -- did he cook for everybody?

6 A Yes, he would.

7 Q Okay. And so you would eat meals over there at his house
8 also?

9 A Yes, I would.

10 Q All right. Now, you've told us that at some point you
11 decided to convert to Islam; is that correct?

12 A Yes, I did.

13 Q Did you ever go to a mosque?

14 A No, I did not.

15 Q Okay. Did you still attend church on Sundays?

16 A Yes, I did.

17 Q Okay. Was your mom and all of your siblings, they're
18 Christian?

19 A I don't know the religion of my mother, but really, we
20 just go to church just to go.

21 Q Okay. But did you go every Sunday?

22 A Yes.

23 Q Okay. Now, did you meet -- do you know Stefan Verdugo?

24 A Yes, I do.

25 Q And did you meet him through your brother?

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1 A Yes, I did.

2 Q And is he a pretty good friend of your brother Lupe's?

3 A He was.

4 Q Now, did you ever hear D say that he wanted to move
5 outside of the country, outside of the United States?

6 A I have not.

7 Q You've told us that at some point he bought you and your
8 brother an X-box; is that correct?

9 A Yes, he did.

10 Q And did he let you take that to your house and you play
11 that game there?

12 A Yes.

13 Q Okay. Do you know whether -- where he bought it at?

14 A I did not know.

15 Q Okay. Do you know whether he bought it at a pawn shop or
16 not?

17 A No.

18 Q Okay. You just don't know?

19 A Yes.

20 Q Okay. When you were converting to Islam, did D have you
21 reading from the Qur'an?

22 A Yes, he did.

23 Q And did he teach you about the history of Islam?

24 A His friend Ibrahim taught me about that, but, yes.

25 Q Okay. And the time that you were in the back room on the

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1 drawing that we have on the -- do you know when that was?

2 A I do not.

3 Q Can you remember whether or not it was before or after
4 Christmas of 2014?

5 A I believe it was before.

6 Q Okay. And do you remember if it was before or after
7 Thanksgiving of 2014?

8 A I do not.

9 Q Okay. Do you remember the time of day that this took
10 place?

11 A It was about 12.

12 Q About noontime?

13 A Yes.

14 Q Okay. So after you go out there and then you go back,
15 then you all went to eat that afternoon; is that correct?

16 A Yes, we did.

17 Q Okay. And who was it that went to eat with you?

18 A It was D, me, and my little brother.

19 Q Okay. Did Ibrahim go with you?

20 A I believe once.

21 Q No. On this particular day, the day that you've told us
22 that is before Thanksgiving of 2014 where you've heard this
23 conversation about the drawing contest --

24 MS. BROOK: Objection. Misstates testimony.

25 THE COURT: He said before Christmas, not before

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1 Thanksgiving.

2 MR. MAYNARD: Oh. Before Christmas of 2014.

3 BY MR. MAYNARD:

4 Q Who all went to eat?

5 A Yes. It was me, Carlos, Lupe, and D.

6 Q Okay. And Lupe went with you also?

7 A Yes.

8 Q Where had he been when this conversation had been taking
9 place?

10 MS. BROOK: Objection. Foundation.

11 THE COURT: Overruled. You may answer, if you know.

12 THE WITNESS: Lupe was actually in a different car
13 but he was following D.

14 BY MR. MAYNARD:

15 Q Okay. Had Lupe -- let me back up a second.

16 When this conversation occurred between Ibrahim and
17 D, you were in the hallway. And then after the conversation
18 occurs, you go back into your brother's -- Lupe's bedroom,
19 correct?

20 A Yes, I did.

21 Q Okay. And then D comes in and asks you if you want to go
22 to eat.

23 A Yes, he did.

24 Q Was your brother Lupe there in the house at the time?

25 A No, he was not.

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1 Q Was Carlos in the house at the time?

2 A No, he was not.

3 Q So somebody had to go get them or call them to go to eat
4 with you two?

5 A Yes.

6 Q And was Ibrahim in the house at the time?

7 A No. He was not.

8 Q Where was Ibrahim?

9 A Ibrahim was actually giving him a phone call when we were
10 on our way to the buffet.

11 Q I'm not trying to confuse you. I want to go back to the
12 day when you heard this conversation in the house.

13 Had Ibrahim been in the house or had he been on a
14 telephone?

15 MS. BROOK: Your Honor, objection. There are two
16 separate occurrences the witness has talked about where he
17 heard the conversation in the house, so the question is
18 confusing.

19 THE COURT: Well, the witness hasn't said he's
20 confused, so.

21 But we're actually going to take our afternoon break
22 and then we will come back and start asking that question
23 again, Mr. Maynard.

24 Ladies and gentlemen, we will reconvene at 2:30.

25 You are reminded of the admonition not to discuss the

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1 case or form any conclusions about it until you have heard all
2 the evidence and begun your deliberations.

3 Court is in recess until 2:30.

4 (Recess taken at 2:12 p.m.; resumed at 2:31 p.m.)

5 THE COURT: Thank you, ladies and gentlemen. Please
6 sit down. The record will show the presence of the jury,
7 counsel, and the defendant.

8 You may continue with your questions of Juan,
9 Mr. Maynard.

10 MR. MAYNARD: Thank you, Your Honor.

11 BY MR. MAYNARD:

12 Q Juan, if I understood your testimony on direct
13 examination, I think you said that you heard D talk about the
14 drawing contest on three occasions or three different times?

15 A Yes.

16 Q Okay. Did you ever tell anybody that you heard him
17 mention that drawing contest four times?

18 A No.

19 Q Okay. You mentioned to us a few moments ago when you were
20 being questioned that one of the times was in the car?

21 A Yes.

22 Q Correct? And your brother Carlos was in the car also,
23 correct?

24 A Correct.

25 Q Okay. But you said he had headphones on or something of

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1 that nature?

2 A Yes.

3 Q So you're the only one who happened to hear that
4 conversation?

5 A Yes, I did.

6 MS. BROOK: Objection. Foundation.

7 THE COURT: Overruled. The answer "yes" will stand.

8 BY MR. MAYNARD:

9 Q Did that conversation that occurred in the car where
10 Carlos was wearing headphones, did it happen before or after
11 the conversation that you've told us about where you were in
12 the back bedroom and you walked out and heard them in the
13 prayer room?

14 A It was on a different occasion.

15 Q I understand. But was it earlier than the one where you
16 walked out of the bedroom and were in the hallway or was it
17 after that one?

18 A It was after.

19 Q Okay. So the one in the car was after?

20 A Yes.

21 Q Okay. And can you tell us how much -- how long after? A
22 couple of days? A week?

23 A I don't know.

24 Q Okay. Do you recall whether that conversation occurred --
25 the one in the car where your brother's got the headphones

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1 on -- was that before or after Christmas?

2 A I don't know.

3 Q Okay. And where was it that you were going in the car
4 when that conversation occurred?

5 A We were on our way to our -- the buffet that we usually
6 went to.

7 Q Where was that?

8 A It was over by Imagine School at Cortez Park.

9 Q Okay. And what were you going there for?

10 A To eat.

11 Q And what was the name of the restaurant?

12 A Chinese Star Buffet.

13 Q And did you meet anybody there at that restaurant on that
14 day?

15 A No.

16 Q So it was just you and Carlos and D?

17 A Yes.

18 Q And it's your understanding he was talking to who on the
19 phone?

20 A He was talking to Ibrahim.

21 Q Ibrahim.

22 And he had a -- I believe you said a bluetooth so
23 that you could hear it?

24 A Yes.

25 Q And did D say he was going to go to wherever this drawing

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1 contest was?

2 A Yes, he did.

3 Q Okay. And he was the one who was going to go and shoot up
4 people?

5 A Yes.

6 Q And did you have an understanding that drawing contest was
7 in Texas?

8 A They talked about it regularly and they kept mentioning
9 that it was in Texas.

10 Q Okay. How long did that conversation last?

11 A It lasted ten minutes exactly.

12 Q How do you know that it lasted ten minutes exactly?

13 A During the time that we were in the car, me and my little
14 brother both had earbuds on but I wasn't really doing anything
15 with the tablet that I had in my hands and I was paying
16 attention to the time as well as to the conversation.

17 Q So you've got a tablet. You're listening to music. But
18 you're watching the time?

19 A Yes.

20 Q So you're able to tell the jury exactly how long that
21 conversation occurred?

22 A It had lasted ten minutes.

23 Q Exactly ten minutes. Okay.

24 And the third time, where did that conversation take
25 place?

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1 A It took place at D's house.

2 Q Okay. And was that conversation before or after the one
3 that you've told us about that occurred in the car?

4 A It was after.

5 Q Okay. And do you know how much longer after? Was it a
6 week or a day or the same day?

7 A It was two weeks after.

8 Q Two weeks. How is it that you remember that it was two
9 weeks after?

10 A It really didn't occur to me. But I just kind of
11 remembered it over and over, so that day when they were
12 talking about it again, it was two weeks prior.

13 Q Okay. So it's two weeks after.

14 Now, is that -- are we still before Christmas or are
15 we now after Christmas?

16 A We are now after Christmas.

17 Q Okay. And so we're somewhere between Christmas and New
18 Years?

19 A Yes.

20 Q And who participates in this third conversation that
21 you've told us about?

22 A It was AK, Ibrahim, and D.

23 Q Okay. So now AK is involved in this?

24 A Yes.

25 Q Okay. And the conversation occurs at D's house?

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1 A Yes, it did.

2 Q Okay. And what time of day was it?

3 A I wasn't sure.

4 Q Well, is it in the morning or is it in the evening?

5 A I don't know.

6 Q Where were you?

7 A In the same room as before.

8 Q You're in your -- the back room that your brother is in?

9 A Yes.

10 Q Is your brother still living there?

11 A No, he was not.

12 Q Okay. So he's now moved out?

13 A Yes.

14 Q So sometime between the first conversation and this third
15 conversation, your brother has moved out of D's house?

16 A Yes, he did.

17 Q Okay. So are you -- what are you doing in that -- what
18 used to be his bedroom?

19 A I was actually watching a couple movies on the X-box that
20 we had set up in there.

21 Q Okay. And so now you hear this conversation between AK,
22 Ibrahim, and D?

23 A Yes.

24 Q Okay. Where are they located?

25 A They are located in the prayer room.

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1 Q So you're back where the "X" is on the map?

2 A Yes.

3 Q Is that correct?

4 A Uh-huh.

5 Q They're in the prayer room where you've put a circle?

6 A Yes, they are.

7 Q Okay. And how is it that you came to hear them?

8 A After the movie ended, I kind of got up and went to go see
9 if D had made anything to eat which I went into the hallway
10 and I started hearing the conversation about the Texas drawing
11 contest.

12 Q And who was going to be drawn in this drawing contest?

13 A Osama bin Laden.

14 Q And who did you understand Osama bin Laden was?

15 A He was understood to me as one of the great Prophets that
16 D had taught me about.

17 Q So D had taught you about him?

18 A Yes, he did.

19 Q And did you have an understanding that it was against the
20 Muslim religion to draw Osama bin Laden?

21 A Yes.

22 Q Now, did you go into the prayer room while they were
23 talking?

24 A No, I did not.

25 Q So did you then stand in the hallway again and look at

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1 this mirror so that you could see them in the prayer room?

2 A Yes, I did.

3 Q So this is the second time that you're seeing them in a
4 prayer room, but it's -- this time AK is in there with Ibrahim
5 and D?

6 A Yes, he is.

7 Q Okay. And are they arguing or discussing?

8 A They were discussing the Texas contest.

9 Q Now, is this the time that you -- well -- who is going to
10 go to Texas at this point?

11 A D was talking about going to Texas and just continuing to
12 shooting people.

13 Q He's going to shoot people?

14 A Yes.

15 Q Okay. Is Ibrahim going to go with him?

16 A No.

17 Q So if I heard you correctly on direct, Ibrahim is trying
18 to talk him down, saying, D, don't go to Texas and shoot
19 somebody?

20 A Uh-huh.

21 Q Is that correct?

22 A Yes.

23 Q And is AK trying to talk him down too?

24 A Yes, he is.

25 Q So do you ever show yourself to these three in the prayer

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1 room?

2 A I did not.

3 Q Did they eventually come out?

4 A They eventually stopped talking about it. And about a
5 couple minutes afterwards, my foot slipped and I guess I'm not
6 sure if they heard me or not, so I ran back into the same
7 room.

8 Q When you say your foot slipped, do you mean to tell this
9 jury you made some sort of noise and it made you nervous that
10 they might have heard you?

11 A Yes.

12 Q Okay. Almost like in a movie, huh?

13 A Uh-huh.

14 Q Yeah. And so then you take it and you run back into the
15 room hoping that they won't discover that you have overheard
16 their conversation?

17 A Yes.

18 Q Okay. And did anybody come in to talk to you after this?

19 A D came into the room to see what I was doing.

20 Q Okay. What did D tell you at this time?

21 A At this time he asked me if I was doing anything and I
22 told him that I was watching a movie and that he asked if I
23 wanted to go eat.

24 Q So did you guys go eat again?

25 A Yes.

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1 Q And where did you go eat this time?

2 A We went to go get some Chinese food.

3 Q Same restaurant you went to before?

4 A Yes.

5 Q Who went with you to get Chinese food the second time?

6 A It was me and D. Nobody else.

7 Q Okay. What happened to Ibrahim?

8 A Ibrahim had left as well as AK.

9 Q Did you happen to ask D whether or not Ibrahim had talked
10 him down and told him don't go to Texas?

11 A No.

12 Q Did you discuss what you had heard at all with D?

13 A I did not discuss anything that I overheard him.

14 Q Okay. When you overheard this conversation between
15 Ibrahim, AK, and D, was D speaking English or Arabic?

16 A He was speaking Arabic at first and then switched to
17 English.

18 Q How long did he speak Arabic?

19 A A few minutes at most.

20 Q I'm sorry?

21 A A few minutes at most.

22 Q A few minutes.

23 Do you understand any Arabic?

24 A A little.

25 Q So this conversation that you overheard, this third one

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1 now in the prayer room, as far as you understood from what you
2 heard, Ibrahim was not going to go to Texas; is that correct?

3 A Yes.

4 Q And AK wasn't going to go to Texas, correct?

5 A Yes.

6 Q The only one that was going to go to Texas was D?

7 A Yes, it was.

8 Q Okay. Now, you never heard D talk about ISIS, did you?

9 A No.

10 Q You never heard D talk about a kalif?

11 A No.

12 Q Never heard D talk about a Khalifah?

13 A No.

14 Q Was D pretty protective of kids?

15 A Yes.

16 Q I mean, were there times when people might be saying
17 things around kids and D would tell them don't talk like that
18 around these kids?

19 A Yes, he would.

20 Q You testified on direct examination there were several
21 times when D talked about strapping a bomb to himself. Do you
22 recall that?

23 A Yes, I do.

24 Q And when was the first time that you heard D say he wanted
25 to strap a bomb to himself?

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1 A It was during the first occurrence that I overheard.

2 Q Was that -- when you're saying "the first occurrence," are
3 you talking about the time where the first time you were in
4 the back room, your brother is still living there and you walk
5 out and you hear him and Mr. Simpson talking?

6 A Yes.

7 Q So in that conversation, not only did D say he was going
8 to go to Texas and shoot people, he also said he was going to
9 put a bomb on himself?

10 A Yes.

11 MS. BROOK: Objection. Misstates testimony.

12 THE COURT: Overruled. The answer will stand.

13 BY MR. MAYNARD:

14 Q Just so that I'm clear, I mean, that occurred in the same
15 conversation, correct?

16 A Yes, it did.

17 Q Okay. And what was it that D said about putting a bomb on
18 himself at that time?

19 A He specifically said that he would strap a bomb to
20 himself, go drive to the nearest mall, go inside, and just
21 blow himself up.

22 Q Okay. And do you recall what Ibrahim's reaction was to
23 that?

24 A Ibrahim was, again, as I mentioned earlier, during the
25 third time that this happened, he was trying to talk him out

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1 of it.

2 Q Did Ibrahim say something to the effect: If you do that,
3 you'll have to spend the rest of your life in jail?

4 A Yes.

5 Q Now, the second time that D says he's going to blow
6 himself up or strap a bomb to himself, when does that happen?

7 A It was the third time. I'm not clearly sure.

8 Q Okay. So it's the time when AK is also present?

9 A Yes.

10 Q Okay. So it takes place in the prayer room. AK is in
11 there. Ibrahim is in there. And D is in there, correct?

12 A Yes.

13 Q And he's not only talking about he's going to go to Dallas
14 to shoot these people, he's also talking about putting a bomb
15 to himself?

16 A Yes.

17 Q Which one was he going to do first? Was he going to go to
18 Dallas and shoot people or was he going to put the bomb on
19 himself?

20 A He was talking about putting -- strapping the bomb to
21 himself first.

22 Q And then after that, then later on he would go to Dallas
23 and shoot people?

24 A Yes.

25 MR. MAYNARD: Okay. Just a moment, Your Honor.

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1 I don't have any further questions.

2 THE COURT: Ms. Brook.

3 MS. BROOK: Thank you.

4 **REDIRECT EXAMINATION**

5 BY MS. BROOK:

6 Q Juan, defense counsel has asked you a lot of questions
7 about what specific time certain things you heard the
8 defendant say happened. He asked you specific questions about
9 what month you heard something happen.

10 Do you know for sure what month or what time,
11 specifically, you heard these things?

12 A I was not sure.

13 Q And when all of this was happening, were you, you know,
14 keeping a personal calendar or noting on a calendar when this
15 stuff was happening?

16 A No, I did not.

17 Q You've talked about two separate times that you heard the
18 defendant say that he was going to strap a bomb to himself and
19 go into a mall and blow himself and other people up.

20 When he said that, how did it make you feel?

21 A It started to make me feel like, wow, he could eventually
22 hurt me or my little brothers or whoever is near him.

23 Q Although you don't remember exactly when you heard him say
24 that, do you remember for sure that he did, in fact, say that
25 two separate times?

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1 A Yes.

2 Q Defense counsel asked you a lot of questions about when,
3 specifically, you heard the defendant talk about going to
4 Texas to that Prophet drawing competition and shooting people.

5 Do you know for sure exactly when you heard him say
6 those things?

7 MR. MAYNARD: Objection. Asked and answered.

8 THE COURT: Overruled. You may answer.

9 THE WITNESS: No.

10 BY MS. BROOK:

11 Q And defense counsel also asked you if Lupe was living in
12 that back bedroom when at least one of the times you heard the
13 defendant say that he was going to go to Texas to that art
14 contest to shoot people.

15 When Lupe moved out of the defendant's house, that
16 back bedroom that we've looked at here, was there still a TV
17 in that back bedroom?

18 A Yes. There was.

19 Q And was there still an X-box machine, a gaming machine in
20 that back bedroom?

21 A Yes. There was.

22 Q And would you still spend time in that back bedroom?

23 A I would.

24 Q Defense counsel asked you if there were four times that
25 you overheard the defendant D talk about going to Texas and

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1 shooting, attacking that art competition. Did you hear him
2 talk about it in the car more than once?

3 A No.

4 Q How often would you go to the Chinese Star Buffet for
5 dinner with D?

6 A We went almost every other weekend, so like a week apart.

7 Q And defense counsel asked you about the time that you
8 heard D talking about going to Texas to the art contest and
9 shooting people and whether or not part of that D spoke in
10 Arabic?

11 A Yes.

12 Q And you said the first couple of minutes he spoke in
13 Arabic?

14 A Yes, he did.

15 Q When D talked about and when you heard him talk about
16 going to Texas and shooting people there, was that in English?

17 A Yes.

18 Q Did Ibrahim give Arabic lessons?

19 A Yes, he did.

20 MR. MAYNARD: Beyond the scope.

21 THE COURT: Overruled. The answer will stand.

22 BY MS. BROOK:

23 Q And what did you say?

24 A Yes.

25 Q Did he give you Arabic lessons?

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1 A Yes, he did.

2 Q Have you and Carlos talked together about what you heard
3 and saw?

4 A No. We have not.

5 Q One last question.

6 Defense counsel asked you about the time in the car
7 where Carlos had the earbuds on and you also had earbuds on.

8 A Uh-huh.

9 Q And you've testified about hearing what the defendant was
10 talking about about the Texas attack.

11 Did you have anything in your ears that was making it
12 difficult for you to hear D talk?

13 A No.

14 Q Was the audio on?

15 A The audio was not.

16 MS. BROOK: I don't have any other questions.

17 THE COURT: May this witness be excused?

18 MS. BROOK: Yes.

19 THE COURT: Is there any objection?

20 MR. MAYNARD: No.

21 THE COURT: Juan, thank you very much. You may step
22 down and you are excused as a witness.

23 The government may call its next witness.

24 (End of Excerpt of Proceedings.)

25 * * *

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C E R T I F I C A T E

I, ELIZABETH A. LEMKE, do hereby certify that I am duly appointed and qualified to act as Official Court Reporter for the United States District Court for the District of Arizona.

I FURTHER CERTIFY that the foregoing pages constitute a full, true, and accurate transcript of all of that portion of the proceedings contained herein, had in the above-entitled cause on the date specified therein, and that said transcript was prepared under my direction and control.

DATED at Phoenix, Arizona, this 1st day of March, 2016.

s/Elizabeth A. Lemke
ELIZABETH A. LEMKE, RDR, CRR, CPE